



REMARKS

The office action rejects claims 31, 34, and 37 under 35 USC 101 and the first paragraph of 35 USC 112. In support of those rejections, the examiner states that:

Claims 31, 34 and 37 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well-established utility.

Claims 31, 34 and 37 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention. [Page 2 line 15 to page 3 line 2.]

In response, the applicant submits that these rejections are improper and should be withdrawn for the reasons stated in the paragraph spanning pages 11 and 12 in the prior response. Moreover, the assertion that the claimed invention is not supported by an asserted utility is incorrect, and is an improper basis for a rejection in an electrical arts case.

The office action rejects claims 1-37 based upon United States patent 6,014,634 to Scroggie et al.

In the response, the applicant notes that the issue date of the Scroggie et al. patent is January 11, 2000. This application has a filing date of October 15, 1999. The Scroggie et al. patent is assigned on its face to Supermarkets Online, Inc. This application is assigned to Supermarkets Online, Inc. The assignment is recorded at reel 010328 frame 0006 and numbers five pages. The assignment was recorded by the USPTO on November 15, 1999. Accordingly, the applicant files herewith a continued prosecution application providing this application with a filing date after November 29, 1999, and thereby invoking the AIPA's exclusion under 35 USC 103(c) of commonly assigned depending applications, which includes the Scroggie et al. patent.

The rejections of claims 1-37 under 35 USC 102 based upon the Scroggie et al. patent are traversed.

With respect to claim 1, the examiner relies upon the Scroggie et al. patent column 3 lines 10-20 and column 13 lines 31-56 to disclose the limitation in claim 1 of "transmitting a manufacturers sample offer" from the main computer to the user's computer "if said user's profile data meets user profile criteria associated with a manufacturer's sample offer for a sample of a product." Column 3 lines 10-20 and column 13 lines 31-56 of the Scroggie et al. patent do not disclose or suggest depending the transmission of the manufacturer's sample offer upon user profile data. Accordingly, claim 1 is not anticipated by the Scroggie et al. patent. For the same reason, independent claims 16 and 31 are not anticipated by the Scroggie et al. patent.

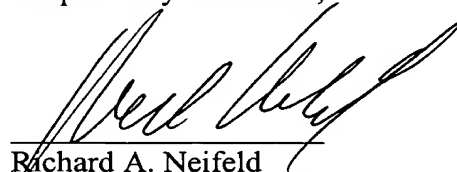
For at least the reasons presented above with respect to the independent claims, each of the dependent claims is not anticipated by the Scroggie et al. patent. Accordingly, the rejections under 35 USC 102 based upon the Scroggie et al. patent should be withdrawn for all claims.

In view of the fact that the Scroggie et al. patent has been disqualified under 35 USC 103(c) as prior art, no basis remains to reject the pending claims based upon the Scroggie et al. patent.

In view of the foregoing comments, I submit that this application is now in condition for allowance. Please allow this application.

Respectfully submitted,

7/29/01
Date


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